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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

F I N A L M I N U T E S

MEETING OF:

STATE BOARD OF OPTOMETRY

TIME: 10:34 A.M.

Held at

PENNSYLVANIA DEPARTMENT OF STATE

2601 North Third Street

One Penn Center, Board Room C

Harrisburg, Pennsylvania 17110

as well as

VIA MICROSOFT TEAMS

Thursday, February 2, 2023

1 ***

2 State Board of Optometry

3 February 2, 2023

4 ***

5 [Pursuant to Section 708(a)(5) of the Sunshine Act,
6 at 10:00 a.m. the Board entered into Executive
7 Session with Shawn J. Jayman, Esquire, Board Counsel,
8 for the purpose of conducting quasi-judicial
9 deliberations and to receive the advice of Board
10 Counsel. The Board returned to open session at 10:30
11 a.m.]

12 ***

13 The regularly scheduled meeting of the State
14 Board of Optometry was held on Thursday, February 2,
15 2023. Luanne K. Chubb, O.D., F.A.A.O., Chairperson,
16 called the meeting to order at 10:34 a.m.

17 ***

18 Roll Call

19 [Chairperson Chubb requested Ms. Chappelle take a
20 roll call of Board members.]

21 ***

22 Introduction of Audience

23 [Chairperson Chubb requested the introduction of
24 audience members.]

25 ***

1 [Shawn J. Jayman, Esquire, Board Counsel, informed
2 everyone that the meeting was being recorded, and
3 those who continued to participate were giving their
4 consent to be recorded.

5 Mr. Jayman also noted the Board entered into
6 Executive Session for the purpose of conducting
7 quasi-judicial deliberations on a number of matters
8 currently pending before the Board and to receive the
9 advice of counsel.]

10 ***

11 Approval of Minutes

12 MR. JAYMAN:

13 Everybody was here at the last meeting.
14 Did everyone have a chance to look at
15 the minutes from December 1, 2022?

16 [The Board discussed corrections to the minutes.]

17 MR. JAYMAN:

18 Any questions or concerns? Given that,
19 I believe the Chairperson would
20 entertain a motion to approve the
21 minutes from the last meeting with the
22 edits.

23 DR. BECKER:

24 I make a motion.

25 DR. UMLAUF:

1 working with experts in review of standard of care
2 cases. He mentioned that this was done with other
3 boards and believed it would be beneficial for
4 staff.]

5

6 Report of Acting Commissioner - No Report

7

8 Report of Board Counsel - Final Adjudication and
9 Order

10 MR. JAYMAN:

11

Based on Executive Session

12

deliberations, I believe the

13

Chairperson would entertain a motion to

14

adopt the Final Adjudication and Order

15

in the matter of Man Tri Vu, O.D., Case

16

No. 18-52-010885.

17 DR. BECKER:

18

I make a motion for the Final

19

Adjudication.

20 DR. GODFREY:

21

I second.

22 CHAIRPERSON CHUBB:

23

All in favor? Roll call vote.

24 MS. CHAPPELLE:

25

Luanne Chubb, aye; John Godfrey, aye;

1 CHAIRPERSON CHUBB:

2 Could I have a motion for approval?

3 DR. BECKER:

4 I make a motion for approval.

5 DR. WILCOX:

6 I second that motion.

7 CHAIRPERSON CHUBB:

8 Any discussion?

9 As far as interested in attending,
10 I would be interested in attending.

11 There has been some discussion of
12 people looking at schedules and will be
13 in touch with the Board for final
14 decisions on being able to finalize the
15 calendar information.

16 I'd like to take a roll call vote
17 on approval.

18 MS. CHAPPELLE:

19 Luanne Chubb, aye; John Godfrey, aye;
20 Matt Eaton, aye; Denise Wilcox, aye;
21 Tyler Ritchie, aye; Jeffrey Becker,
22 aye; Perry Umlauf, aye; Marc Berson,
23 aye.

24 CHAIRPERSON CHUBB:

25 Any opposed? Any abstentions? Hearing

1 none. Motion carries.

2 [The motion carried unanimously.]

3 ***

4 Report of Regulatory Counsel

5 [Shawn J. Jayman, Esquire, Board Counsel, provided a
6 regulatory status report for the Board's review of
7 active regulations, including the Volunteer License,
8 Child Abuse Reporting Requirements, Licensure by
9 Endorsement, and Opioid Prescribing and Education.

10 Dr. Wilcox commented that there is currently a
11 volunteer license in the regulations that requires
12 people to take continuing education and requested
13 information regarding the amendment.

14 Mr. Jayman will review the old minutes and keep
15 that under advisement.

16 Chairperson Chubb and other Board members did not
17 think there was prior discussion regarding the
18 volunteer license and believed it predates 2017. She
19 noted the importance of being aware of regulations
20 that are open and being aware of their status.

21 Dr. Wilcox requested more information regarding
22 changes to the opioid regulation and whether everyone
23 would be required to take the opioid course.

24 Dr. Godfrey asked where Mr. Jayman got the
25 regulatory information.

1 Review of Applications

2 MR. JAYMAN:

3 Number 5 on the agenda. Based on
4 Executive Session deliberations, I
5 believe the Chairperson would entertain
6 a motion to grant the Application,
7 Therapeutics in the matter of Lynn Ann
8 Hatrack, O.D. It should also be noted
9 that should she pursue a glaucoma
10 therapy license then she would need the
11 appropriate coursework and apply.

12 CHAIRPERSON CHUBB:

13 Do we have a motion?

14 DR. BECKER:

15 I make a motion to grant a therapeutic
16 license to Lynn Ann Hatrick.

17 DR. UMLAUF:

18 I second it.

19 CHAIRPERSON CHUBB:

20 Roll call vote for approval.

21 MS. CHAPPELLE:

22 Luanne Chubb, aye; John Godfrey, aye;
23 Matt Eaton, aye; Denise Wilcox, aye;
24 Tyler Ritchie, aye; Jeffrey Becker,
25 aye; Perry Umlauf, aye; Marc Berson,

1 aye.

2 CHAIRPERSON CHUBB:

3 Any opposed? Any abstentions? Motion
4 carries.

5 [The motion carried unanimously.]

6 ***

7 Old Business

8 [Luanne K. Chubb, O.D., F.A.A.O., Chairperson,
9 addressed committees' assignments, noting she and Dr.
10 Wilcox would serve on the Probable Cause Screening
11 Committee; Dr. Godfrey would serve on the
12 Pharmaceutical Committee; Dr. Berson, Dr. Becker, and
13 Dr. Umlauf on the Continuing Education Committee; and
14 Dr. Godfrey and Mr. Ritchie on the Act 41 Committee.

15 Dr. Becker requested information concerning
16 application approval.

17 Ms. Chappelle informed Dr. Becker to email her
18 the course name for approval information. She noted
19 optometry does not currently have a backlog but
20 explained that it has to be postmarked within 90 days
21 and then put in their system.

22 Ms. Chappelle encouraged everyone to have the
23 application tracked but also reiterated that once it
24 is signed for, it is signed for by a mail processing
25 center and not administration. She noted that having

1 an electronic copy would not help the applicant
2 because administrative staff enters the information
3 into the Pennsylvania Licensing System (PALS).]

4

5 Appointment - Prosecution Division Annual Report
6 Presentation

7 [Carolyn A. DeLaurentis, Esquire, Executive Deputy
8 Chief Counsel, Department of State, informed Board
9 members that she is now the Executive Deputy Chief
10 Counsel for the Department of State but is presenting
11 to the Board on behalf of the prosecution division in
12 her former role to provide the presentation.

13 Ms. DeLaurentis presented to the Board to provide
14 a summary of the prosecution division's role and
15 present annual numbers for 2022. She informed Board
16 members that the Bureau of Professional and
17 Occupational Affairs provides administrative and
18 legal support to all 29 licensing boards and
19 commissions under the legal support of the
20 prosecution division, counsel division, and hearing
21 examiners. She noted the mission is to protect the
22 health and safety of the public and the integrity of
23 the profession.

24 Ms. DeLaurentis explained that the Office of
25 Chief Counsel is under the Governor's Office of

1 General Counsel and assigned to the Department of
2 State, noting the prosecution division is one
3 division under the Office of Chief Counsel. She
4 noted the prosecution division works with the Bureau
5 of Enforcement and Investigation (BEI), along with
6 the Professional Compliance Office (PCO).

7 Ms. DeLaurentis stated BEI, PCO, and prosecution
8 are all tasked with receiving complaints,
9 investigating allegations, ensuring public safety,
10 and enforcing compliance with the acts and
11 regulations governing the 29 licensing boards and
12 commissions.

13 Ms. DeLaurentis stated the prosecution division
14 is the largest division under the Office of Chief
15 Counsel for the Department of State. She explained
16 that there are five senior prosecuting attorneys
17 assigned to teams because the prosecution division is
18 broken into five teams assigned to different boards
19 and commissions. She noted Paul Jarabeck is the
20 senior prosecutor for their Board, along with acting
21 senior prosecutor, Karl Geschwindt; Heather McCarthy;
22 Ray Michalowski; and William Newport for the other
23 boards and commissions. She mentioned there are
24 currently 32 prosecuting attorneys serving under the
25 senior attorneys, including liaisons.

1 Ms. DeLaurentis addressed the complaint process,
2 noting complaints are received from any source but
3 prefer complaints be submitted through the
4 Pennsylvania Licensing System (PALS) at pals.pa.gov
5 because it is the most efficient. She noted
6 prosecution also accepts complaints from sister
7 agencies, federal agencies, law enforcement, and
8 through media reports.

9 Ms. DeLaurentis discussed levels of review,
10 including jurisdiction checks, noting administrative
11 assistants review every complaint to see if it falls
12 under one of the 29 boards and commissions. She
13 mentioned complaints are referred to the appropriate
14 agency if prosecution does not have jurisdiction.

15 Ms. DeLaurentis stated that prosecution works
16 with BEI inspectors and investigators to determine
17 the most efficient use of resources. She noted
18 investigations may include interviewing witnesses and
19 gathering documents. She addressed the various
20 levels of review and whether there was a violation.
21 She explained that matters could be closed if there
22 is not a violation of the act or regulation and
23 direct attention to other cases.

24 Ms. DeLaurentis discussed the post-investigation
25 process, where attorneys may need to make charging

1 decisions based on evidence by filing an order to
2 show cause or a citation. She noted there is a
3 hearing process, which is similar to a regular trial,
4 where both sides are able to present evidence and
5 legal arguments.

6 Ms. DeLaurentis noted that if it goes to a
7 hearing examiner, the hearing examiner usually issues
8 a proposed adjudication and then it goes to the
9 boards and commissions for their final decision
10 because they have the ultimate authority for
11 discipline. She addressed consent agreements, where
12 both sides are conducting negotiations and trying to
13 reach a resolution and present that to the Board,
14 where the Board could accept or reject the agreement.

15 Ms. DeLaurentis addressed the prosecution
16 division's role at Board meetings, including
17 presenting consent agreements and listening to
18 concerns of the Board. She pointed out that
19 prosecution has a confidentiality statute that
20 applies to their files, where all of the content
21 within their files is confidential under the law
22 unless presented publicly and is why prosecution
23 cannot speak on some matters except for the final
24 action.

25 Ms. DeLaurentis stated BEI conducts

1 investigations and interviews, gathers evidence, and
2 conducts inspections for certain boards. She noted
3 the role of the investigators is fact gathering and
4 serving subpoenas, orders, and letters. She
5 mentioned that prosecution has subpoena authority,
6 but BEI does not have search warrant authority and is
7 limited. She noted BEI also testifies to the results
8 of their investigations and inspections. She also
9 noted they have inspection authority but do not have
10 statutory authority and cannot remain at that
11 location if asked to leave.

12 Ms. DeLaurentis addressed documents upon request,
13 where some boards and commissions have regulations
14 that require cooperation but not everyone complies
15 and charges may be filed for failure to comply. She
16 stated all of the evidence gathered is presented to
17 the teams and reviewed by prosecuting attorneys and
18 legal analysts to determine whether there was a
19 violation of the act or regulation to decide whether
20 to close the case or charge.

21 Ms. DeLaurentis addressed immediate temporary
22 suspensions, where someone is an immediate danger to
23 the health and safety of the public, and is different
24 than charging documents with an order to show cause,
25 where the license remains intact depending on the

1 outcome of the case. She noted automatic suspensions
2 include 302 commitments, orders for examination, and
3 drug act violations. She also noted petitions for
4 appropriate relief are when someone has violated a
5 board order.

6 Ms. DeLaurentis stated that levels of discipline
7 include revocations, suspensions, probations,
8 reprimands, fines, cost of the investigation, and
9 completion of remedial education. She mentioned that
10 some cases could have more than one type of
11 discipline and can be found in more than one category
12 in the report.

13 Ms. DeLaurentis referred to the confidentiality
14 statute under 63 Pa.C.S. § 3109, where prosecution and
15 investigative files are deemed privileged and
16 confidential under the law. She explained that
17 Department of State investigative files are deemed
18 noncriminal investigative records under the Right-to-
19 Know Law.

20 Ms. DeLaurentis stated that information could be
21 shared with other agencies in furtherance of
22 investigative efforts but only their final action
23 could be shared publicly, including final
24 adjudications and orders, final consent agreements,
25 and final letters.

1 Ms. DeLaurentis provided data as of January 3,
2 2023, where the number of open cases for the
3 prosecution division was 13,154, which is down from
4 2022 at 15,141. She stated 16,084 cases were opened
5 in 2022 and is down from 2021 at 18,363 cases. She
6 reported closing 17,826 files in 2022 and is up from
7 2021, where 15,994 cases were closed. She thanked
8 the prosecution division, counsel division, BEI, and
9 Board for their group effort. She noted the average
10 time to close a case is 301 days for their Board.

11 Dr. Wilcox commented that there were an extremely
12 low number of cases with 38 cases opened and 31
13 closed.

14 Ms. DeLaurentis explained that the Board is
15 consistent and that prosecution is keeping up with
16 the cases coming in and cases being closed. She
17 reported 38 cases opened in 2022, 58 in 2021, and 46
18 in 2020. She reported 31 cases were closed in 2022,
19 57 in 2021, and 40 in 2020. She noted 40 open cases
20 as of January 3 with 33 around this time last year.

21 Ms. DeLaurentis referred to disposition of closed
22 cases, including discipline and non-discipline. She
23 reported fines and reprimands were low in 2022,
24 noting no discipline the prior year. She mentioned
25 that non-disciplinary actions are called Z codes in

1 their system, where prosecution was not warranted.
2 She reported 3 warning letters in 2022 and 28 in
3 2021.

4 Ms. DeLaurentis explained that warning letters
5 are not discipline and that the report is similar to
6 what is sent to the General Assembly every year, but
7 the report to the General Assembly includes case
8 categories. She noted warning letters help maintain
9 the integrity of the profession by attempting to
10 correct any behavior that may become an issue and are
11 given for de minimis violations.

12 Dr. Wilcox referred to the budget, noting it is
13 very expensive for so few prosecution cases.

14 Ms. DeLaurentis explained that there are a lot of
15 costs that go into the cases and to keep in mind that
16 they are attorneys and not doctors, where retaining
17 an expert to assist with standard of care cases or
18 practice issues would drive up cost.

19 Dr. Becker requested more information regarding
20 prosecution cases.

21 Mr. Jarabeck explained that cases are split into
22 administrative categories that can be reviewed and
23 handled and practice issues, where a substantially
24 greater time is involved with investigation, fact
25 gathering, and possibly expert review costs. He

1 mentioned that no expert cases have come back since
2 his involvement with the Board in 2018.

3 Mr. Jarabeck noted the importance of having a
4 free-flowing conversation with experts because the
5 prosecutors do not have that background. He stated
6 that prosecution has a better understanding of some
7 of the issues with other boards that have a larger
8 volume and would like the same for their Board.

9 Mr. Jarabeck addressed case history, noting the
10 Board would have to delve into the early 2000s or
11 late 90s for a substance and treatment matter. He
12 noted that specific disciplinary matters include a
13 lapsed license, continuing education, criminal
14 matters, and impairment and is where the money comes
15 in because of the time and effort involved.

16 Dr. Wilcox commented that she was still
17 overwhelmed at the expense when 16 of the 31 cases
18 were dropped, 1 case withdrawn, 5 cases closed by
19 administration, and only 3 warning letters were sent.

20 Dr. Chubb stated the Board has asked for breakdowns
21 of the budget costs in all areas and not just in
22 prosecution but have not been able to achieve that.
23 She asked for a breakdown of all departments for
24 comparison, noting her predecessor, Dr. Urbanski,
25 asked for a breakdown in February 2020.

1 Ms. DeLaurentis deferred the Board to the fiscal
2 office.

3 Chairperson Chubb thanked Ms. DeLaurentis for the
4 presentation.]

5 ***

6 Appointment - Bureau of Finance and Operations

7 Annual Budget Presentation

8 [Amanda Richards, Chief of Fiscal Management, Bureau
9 of Finance and Operations, Department of State,
10 referred to licensee population over the past seven
11 years, noting the Board had 2,835 licensees last
12 fiscal year and 2,682 licensees at the time of the
13 report in January, showing a slight drop but expected
14 after the renewal in November. She reported an
15 increase this morning of 10 licensees to 2,692.

16 Ms. Richards addressed license class, including
17 optometrist, optometrist-diagnostics, optometrist-
18 therapeutics, and optometrist-therapeutics/glaucoma.

19 She noted 2021 was the last time the Board renewed
20 prior to November and had 2,720 licensees and 2,682
21 with this renewal.

22 Ms. Richards addressed revenue, noting it is
23 reviewed on a biennial basis. She reported on the
24 revenue in FY20-21 and in FY21-22, noting the
25 biennial total. She noted 97 percent of revenue is

1 from renewals and applications. She stated that
2 revenue is received from other sources but cannot
3 count on it because it is not a consistent source of
4 revenue.

5 Chairperson Chubb requested further information as
6 to why the Board was asked to consider increasing
7 fees when Dr. Urbanski was Chair and about a year ago
8 but then told there was no need to increase fees.

9 Ms. Richards noted the two main categories when
10 reviewing expenses are administrative and legal
11 costs. She stated that expenses are brought in
12 through direct costs, timesheet-based charges, and
13 license population. She reported on the Board's
14 expenses in FY20-21, FY21-22, and as of January 19,
15 2023. She noted the budgeted figure was adequate for
16 FY22-23.

17 Ms. Richards explained that the Bureau of Finance
18 and Operations (BFO) consults with prosecution and
19 counsel for anything coming down the line and have
20 not been notified of anything that would drive costs
21 up.

22 Ms. Richards addressed revenue and expenses
23 showing the projected balance for FY22-23. She noted
24 their balance is growing through the next three
25 fiscal years in the renewal years and would not

1 recommending a fee increase based on the current
2 information.

3 Chairperson Chubb asked how BFO takes into account
4 something that would increase prosecution costs
5 significantly. She mentioned there is always a delay
6 in raising a license fee and that it would not go
7 into effect for another two years.

8 Ms. Roberts explained that BFO would continue to
9 monitor the budget and expenses and that the
10 Independent Regulatory Review Commission (IRRC) can
11 deny a fee increase based on their expenses and
12 budget.

13 Chairperson Chubb noted the Board probably the
14 lowest licensure fee in the country at \$135 and that
15 it has not been raised since 1988. She believed it
16 would be prudent to raise the licensure fee to
17 provide a cushion for the Board. She commented that
18 optometrists are very cautious, detailed people and
19 did not think \$200 is an unreasonable rate for an
20 optometrist to pay for a license every two years.

21 Dean F. Picarella, Esquire, Senior Board Counsel,
22 explained that statutorily boards are not allowed to
23 carry a huge extra balance. He noted the government
24 is not in the business to make a profit but want to
25 make sure boards have a healthy budget to be able to

1 operate.

2 Mr. Picarella further explained that IRRC would
3 most likely deny the fee increase because the Board
4 has a balance with a surplus. He also noted fee
5 increase regulatory packages are expensive and that
6 it might ultimately go nowhere.

7 Chairperson Chubb commented that the presentation
8 about a year ago was asking the Board to consider a
9 fee increase and then at the next meeting was tabled.
10 She stated it was very confusing information, where
11 the fee increase was urgent and then became a
12 nonissue.

13 Mr. Jarabeck addressed costs over a period of
14 time, noting the last fee increase was in 1988. He
15 noted that there has been probably a pretty
16 significant change in personnel costs, not only for
17 benefits but also for per hour fees for staff that
18 would be working. He commented that the Board has
19 stayed on a budget circuit 1988 while paying 2023
20 wages.

21 Ms. Richards informed Board members that a
22 breakdown of costs was provided to Ms. McNeil in
23 November.

24 Chairperson Chubb thanked Ms. Roberts for the
25 presentation.]

1 ***

2 [Paul J. Jarabeck, Esquire, Senior Board, referred to
3 the prior committee assignment discussion, where
4 Chairperson Chubb and Dr. Wilcox would be on the
5 Probable Cause Screening Committee. He mentioned
6 that having two Board members reviewing a probable
7 cause matter with a split vote would be a problem and
8 suggested having an alternate if the main member is
9 not available to vote.

10 Chairperson Chubb apologized to Mr. Jarabeck,
11 noting they had a prior discussion about having just
12 a single person on the committee because of the size
13 of the Board.

14 Dr. Wilcox volunteered to be the alternate if
15 Chairperson Chubb was not available to review the
16 case.

17 Mr. Jarabeck added that the Board has vacancies
18 and could have three people on the committee once
19 those vacancies are filled. He reminded everyone of
20 the probable cause process, where any Board member
21 who reviewed the probable cause matter would need to
22 recused themselves from any additional
23 participation.]

24 ***

25 New Business

1 CHAIRPERSON CHUBB:

2 We are moving on for an addition to the
3 approved drug list for Pennsylvania
4 optometry. Chloroprocaine
5 hydrochloride ophthalmic is a topical
6 anesthetic that provides longer term
7 anesthesia to the cornea for a
8 procedure greater than a topical drop.

9

10 I am asking for a motion to add the
11 drug to our list.

12 DR. BECKER:

13 I make a motion to add the drug to the
14 list.

15 DR. GODFREY:

16 Is there a second?

17 DR. UMLAUF:

18 Second.

19 CHAIRPERSON CHUBB:

20 All in favor? Roll call vote.

21 MS. CHAPPELLE:

22 Luanne Chubb, aye; John Godfrey, aye;
23 Matthew Eaton, aye; Denise Wilcox, aye;
24 Tyler Ritchie, aye; Jeffrey Becker,
25 aye; Perry Umlauf, aye; Marc Berson,

1 aye.

2 CHAIRPERSON CHUBB:

3 Opposed? Abstained. Hearing none.

4 Motion carries.

5 [The motion carried unanimously.]

6 ***

7 Miscellaneous

8 [Luanne K. Chubb, O.D., F.A.A.O., Chairperson,
9 referred to classification of virtual live meetings
10 for continuing education.

11 Mr. Jayman addressed § 23.86 regarding sources of
12 continuing education. He noted approved providers at
13 § 23.86(a)(1) through (10). He referred to § 23.83(a)
14 regarding continuing education subject matter and
15 acceptable courses. He noted § 23.86(g) indicates it
16 could be done online where it reads, credit hours
17 will be given for correspondence programs, taped
18 study programs, online or webinar programs, journal
19 courses and other individual study programs at the
20 rate of 1 continuing education hour for every 50
21 minutes.

22 Dr. Wilcox commented that they already know 50
23 percent of 30 credits could be done online but asked
24 whether they could take a virtual course for the
25 other 50 percent. She asked whether the other 15

1 credits have to be in the room with the teacher for
2 the other 15 credits.

3 Chairperson Chubb, commented that it was known in
4 the past that a live lecture was in a physical
5 building but live lectures are also now given
6 virtually in many settings and educational
7 institutions. She asked whether a live virtual
8 lecture would fall under (a) because under (g)
9 correspondence programs, taped study programs, online
10 or webinar programs or only prerecorded, journal
11 courses, and other individual study programs, a
12 virtual classroom is not an individual study program.

13 Chairperson Chubb, believed live virtual or live
14 in person would fall under (a) but anything
15 prerecorded would fall under (g).

16 Dr. Wilcox commented that 15 credits every two
17 years in person is not a hardship and believed a
18 camera should be on the person to be observed.

19 Chairperson Chubb, addressed options to monitor
20 attendance, noting webinars cannot monitor attendance
21 but can actually monitor when someone goes on their
22 computer and does a Google search while attending
23 that lecture.

24 Dr. Becker was able to receive additional
25 continuing education the last two years and felt more

1 educated because he was able to do that virtually.
2 He commented that the Board's job is to make sure
3 optometrists are educated and acquire the CEs and
4 believed virtual education is a benefit to the Board
5 and colleagues.

6 Dr. Umlauf mentioned that he has been receiving
7 many phone calls from optometrists who think the
8 Board is not up with the times regarding live CEs.

9 It was noted that Pennsylvania does take an
10 extensive amount of time for regulations to go
11 through. Some states can make a decision and have
12 the regulations through within a three- to six-month
13 period. Dr. Chubb mentioned ARBO is now defining and
14 have now said that a synchronous lecture, live
15 lecture can be done either physically or virtually
16 and still considered live. She noted the problem is
17 where it falls in their regulations and whether they
18 have to redefine their regulations.

19 Mr. Picarella explained that it comes down to the
20 definition section of the regulation, where they
21 could define virtual and asynchronous and what
22 constitutes a virtual presence.

23 Chairperson Chubb, commented that there are 10
24 providers providing continuing education but the
25 classroom is a virtual classroom, and licensees are

1 asking that it fall under live classroom. She noted
2 the Council on Optometric Practitioner Education
3 (COPE) are defining a virtual classroom as a live
4 session with interaction with the speaker.

5 The online CE waivers were noted for the State
6 Board of Optometry, where starting on 12/1/2022, for
7 the renewal that will end on 11/30/2024, standard CE
8 requirements will be in effect (current regulations
9 allow for up to 15 of the required 30 hours to be
10 online). He noted they are only allowing 15 of it to
11 be online, whether it is live virtual or online.

12 Chairperson Chubb, asked whether 15 credits could
13 be taken in front of a computer if there is an in-
14 person conference that has a virtual component. She
15 asked whether the people who attended virtually
16 listening to the same people in that building would
17 be penalized for not being present.

18 Chairperson Chubb asked whether there was a rule
19 in the regulations because a virtual live classroom
20 or a classroom could be done on a computer in today's
21 world. She noted that licensees have asked if they
22 are taking a live course but in a virtual space and
23 asked whether that still considered as part of (a)
24 versus (g).

25 Mr. Jarabeck commented that there are varying

1 points and counsel is now able see that and have a
2 conversation at the next meeting regarding this
3 public discussion. He suggested placing it on the
4 agenda for the next scheduled Board meeting in May.

5 Dr. Umlauf expressed concern with waiting until
6 May and believed there should be a uniform statement
7 for the phone calls everyone may receive.

8 Mr. Picarella commented that the optometrists are
9 required to have 30 continuing education credits and
10 15 of them could be taken other than a classroom,
11 including virtually, so 15 of them have to be live in
12 person and means sitting in a classroom with a person
13 in front of someone presenting.

14 Mr. Ritchie stated there is a distinction between
15 live and virtual continuing education credits for
16 attorneys, where live has some kind of camera or
17 routine checkup but is done by whoever is running the
18 continuing legal education (CLE) and not done by a
19 licensing board. He mentioned that might help where
20 one part is talking about virtual, which could be
21 webinars or prerecording and can receive credits that
22 way, but live could still be done virtually as long
23 it is in person in real time.

24 Chairperson Chubb further explained that there
25 are already interactive sessions where someone could

1 chat with a person and take attendance by the login,
2 along with having questions that require a response
3 to show they are still in attendance. She stated
4 licensees are asking, if they go home and take a CE
5 class tonight by the American Academy of Optometry or
6 POA and there is a live speaker, does that fall into
7 live requirements.

8 Mr. Picarella commented that the Board is the
9 ultimate decider of what the regulations state. He
10 provided a response for anyone who may receive a
11 phone call concerning continuing education, where the
12 Board does not give advisory opinions and cannot
13 decide that question until it comes before the Board.

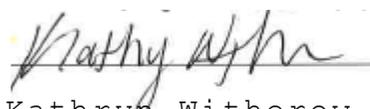
14 Mr. Picarella informed Board members that
15 prosecution, at the current time, would decide
16 whether they want to prosecute somebody if there is a
17 question as to whether they did not follow the
18 regulations, noting it would then come before the
19 Board for the final decision as to how their
20 regulations are interpreted.

21 Mr. Picarella explained that the Board would need
22 a regulatory change in the end by making amendments
23 to the regulations to define virtual live and in
24 person. He stated the Board can only speak through
25 regulations, adjudications, and their law and cannot

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CERTIFICATE

I hereby certify that the foregoing summary minutes of the State Board of Optometry meeting, was reduced to writing by me or under my supervision, and that the minutes accurately summarize the substance of the State Board of Optometry meeting.



Kathryn Witherow,

Minute Clerk

Sargent's Court Reporting
Service, Inc.

STATE BOARD OF OPTOMETRY
REFERENCE INDEX

February 2, 2023

	TIME	AGENDA
1		
2		
3		
4		
5		
6		
7		
8		
9	10:00	Executive Session
10	10:30	Return to Open Session
11		
12	10:34	Official Call to Order
13		
14	10:34	Roll Call/Introduction of Audience
15		
16	10:36	Approval of Minutes
17		
18	10:37	Report of Board Prosecutors
19		
20	10:40	Report of Board Counsel
21		
22	10:42	Report of Board Chairperson
23		
24	10:44	Report of Regulatory Counsel
25		
26	10:51	Review of Applications
27		
28	10:53	Old Business
29		
30	10:58	Appointment - Carolyn A. DeLaurentis,
31		Esquire, Executive Deputy Chief
32		Counsel, Department of State,
33		Prosecutorial Division Presentation
34		
35	11:35	Appointment - Bureau of Finance and
36		Operations Annual Budget Presentation
37		
38	12:00	New Business
39		
40	12:02	Miscellaneous
41		
42	12:50	Adjournment
43		
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